House
REPUBLICAN
Conference

Legislative Digest

Week of April 3, 2000 Vol. XXIX, #9, March 31, 2000

J.C. Watts, Jr.
Chairman
4th District, Oklahoma

Monday, April 3

House Meets at 12:30 p.m. for Morning Hour and 2:00 p.m. for Legislative Business
(No votes before 6:00 p.m.)

**** 12 Suspensions**

Tuesday, April 4, and the Balance of the Week

On Tuesday, House Meets at 9:30 a.m. for Morning Hour and 11:00 a.m. for Legislative Business
On Wednesday-Friday, House Meets at 10:00 a.m. for Legislative Business

Eric Hultman: *Managing Editor*

Brendan Shields, Greg Mesack
& Michelle Yahng:
Legislative Analysts

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Science Committee Reports Restoration Act

H.R. 3904

Committee on Science
No Report Filed
Introduced by Mr. Sensenbrenner on March 13, 2000

Floor Situation:

The House is scheduled to consider H.R. 3904 under suspension of the rules on Monday, April 3, 2000. It is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

H.R. 3904 restores certain reporting requirements for agencies under the jurisdiction of the Science Committee that would otherwise have been eliminated as part of the 1995 Federal Reports Elimination and Sunset Act *(P.L. 104-66).* This law eliminated thousands of congressionally mandated reports on a variety of topics. While the Federal Reports Elimination and Sunshine Act will reduce unnecessary paperwork and reduce agency expenditures, it also inadvertently deleted the requirement for certain reports that the committee believes are necessary in executing its oversight responsibilities. The measure requires agencies to continue submitting approximately 30 reports on energy policy, the Communications Satellite Corporation, the National Science Foundation, environmental matters, research and development and other areas under the jurisdiction of the Science Committee.

The Science Committee argues that the bill appropriately continues many reports that are critical to congressional oversight and government accountability. This bill will affect a small percentage of the total number of reporting requirements eliminated by the Federal Reports elimination and Sunshine Act.

Costs/Committee Action:

A CBO cost estimate was not available at press time.

The bill was referred to the Science Committee on March 13, 2000.

Greg Mesack, 226-2305

Methane Hydrate Research and Development Act

H.R. 1753

Committee on Resources
H.Rept. 106-377
Introduced by Mr. Doyle *et al*. on May 11, 1999

Floor Situation:

The House is scheduled to consider H.R. 1753 under suspension of the rules on Monday, April 3, 2000. It is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

H.R. 1753 requires the Energy Secretary to consult with the secretaries of Commerce, Defense, and Interior, along with the director of the National Science Foundation, to begin a methane hydrate research and development program to establish methane hydrate as a viable energy resource within 180 days following enactment. The measure allows the Energy Secretary to award grants, contracts, or enter into cooperative agreements with institutes of higher education and industrial enterprises under a competitive, merit-based process to (1) research methane hydrate as an energy source; (2) assist in developing technologies required for the efficient and environmentally sound development of methane hydrate resources; (3) research safe means of transporting and storing gas produced from methane hydrates; (4) promote education and training in methane hydrate resource research and development; (5) assess and mitigate the environmental impacts of hydrate degassing; and (6) develop technologies to reduce the risks of drilling through methane hydrates.

The bill also requires the Energy Secretary to:

* establish an advisory panel to (1) advise the Energy Secretary on potential applications of methane hydrate; (2) assist in developing recommendations and priorities for the methane hydrate research and development program; (3) report to Congress within two years on the impact of global climate change from methane hydrate extraction and consumption;

* facilitate partnerships among the government, industry, and institutes of higher education and cooperation between federal agencies to research, identify, assess, and explore methane hydrate resources;

* establish programs to promote the long-term interest in methane hydrate as an energy source;

* ensure the appropriate accessibility of data and information developed through the methane hydrate program; and

* report to Congress annually on methane hydrate research and development progress.

In addition, the bill amends the 1970 Mining and Mineral Policy Act to define methane hydrates as a "mineral." The measure authorizes (1) $5 million in FY 2001; (2) $7.5 million in FY 2002; (3) $11 million in FY 2003; and (4) $12 million in FY 2004 and FY 2005 to carry out the methane hydrate research and development program. The bill sunsets the methane hydrate research and development program at the end of FY 2005.

The Senate amendments to H. R. 1753 added two new definitions to the bill: (1) a definition of "industrial enterprise" to include a private, nongovernmental entity with expertise relating to methane research and development and (2) a new definition of "methane hydrate" to include gas hydrates found in deep-ocean and permafrost deposits. The Senate amendments also added a coordination role for methane hydrate research and development to be assumed by an individual in the Department of Energy designated by the Secretary. Membership on an advisory panel to the Secretary of Energy was limited to no more than 25 percent of the individuals to be federal employees. Finally, the bill adds a new provision requiring the Secretary of Energy to engage the National Research Council (NRC) to conduct a study of the progress of the R & D program and to transmit its report to the Congress no later than September 30, 2004.

Background:

Methane hydrate is a mixture of gas and water that is frozen into ice. It remains solid at high pressure and low temperatures, and is generally found in permafrost regions and in deep-sea sediment. Scientists believe sediments in the U.S. continental shelf contain great amounts of methane hydrate deposits. Significant hydrate deposits also have been identified at shallower depths in the permafrost areas of the Alaskan North Slope. Hydrate deposits are estimated to contain a much greater amount of natural gas than conventional accumulations; one unit of hydrate can release up to 160 times its volume in gas.

Currently, it is unknown if hydrates can be safely and economically recovered. Oil and gas operators have recorded numerous drilling and production problems related to gas disassociation, such as uncontrolled gas release during drilling, collapse of well casings, and gas leakage to the surface. In addition, the release of large quantities of gas into the atmosphere can have significant effects on global climate change. If hydrates can be harvested, the amount of natural gas produced could increase our rapidly depleting natural energy supply.

The methane hydrate research program will search for locations where hydrates are sufficiently concentrated to warrant commercial interests, in addition to proving the technological feasibility and safety of their production. Methane hydrate research holds promise for enhancing conventional petroleum exploration and increasing our nation's energy independence.

Costs/Committee Action:

CBO estimates that, assuming appropriations of authorized amounts, enactment will increase discretionary spending by $35 million over the next five years. The bill does not affect direct spending, so pay-as-you-go procedures do not apply.

The Science Committee reported the bill by voice vote on October 13, 1999. The Resources Committee reported the bill by voice vote on October 18, 1999. The bill passed the House on October 26, 1999 by

voice vote. The Senate amended H. R. 1753 and passed it by unanimous consent on November 19, 1999.

Eric Hultman, 226-2304

Resolutions Authorizing the Use of the Capitol Grounds H.Con.Res. 278, H.Con.Res. 281, and H.Con.Res. 279

Committee on Transportation & Infrastructure
H.Rept. 106-41, H.Rept. 106-544, and H.Rept. 106-542

Floor Situation:

The House is scheduled to consider the following two resolutions on Monday, April 3, 2000, under suspension of the rules. Each is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

H.Con.Res. 278 authorizes the use of the Capitol Grounds for the 19th annual National Peace Officers' Memorial Service on May 15, 2000. In 1963, President John F. Kennedy proclaimed May 15th as the National Peace Officers' Memorial Day. The resolution authorizes the Architect of the Capitol, the Capitol Police Board, and National Fraternal Order of Police to negotiate the event's arrangements in compliance with the regulations of Capitol Grounds uses. The memorial service honors men and women who lost their lives while in the line of duty last year. The service will be held publicly on the West Front of the Capitol and is free of charge. The sponsor assumes complete responsibility for all expenses and liabilities associated with the event. H.Con.Res. 278 was introduced by Mr. Traficant on March 13, 2000.

H.Con.Res. 281 authorizes the use of the Capitol Grounds for the John F. Kennedy Center for the Performing Arts Millennium Stage in conjunction with the National Park Service. Concerts on the Capitol Grounds are scheduled for Tuesdays and Thursdays from 12:00 to 1:00 p.m. between Memorial Day and September 30, 2000. The concerts will be held on the East Front Lawn of the Capitol and will be open to the public and free of charge. All arrangements must be negotiated between the Architect of the Capitol, the Capitol Police Board, and the sponsor. The Senate and the House must approve the dates of the concerts. The resolution was introduced by Mr. Shuster on March 14, 2000.

H.Con.Res. 279 authorizes the use of the Capitol Grounds for the 200th birthday celebration of the Library of Congress. The event is scheduled for April 24, 2000 from noon to 1:30 p.m. The celebration includes a free concert and is open to the public. All arrangements must be negotiated between the Architect of the Capitol, the Capitol Police Board, and the sponsor. The resolution was introduced by Mr. Franks on March 14, 2000.

Committee Action:

The Transportation Committee reported all bills by voice vote on March 16, 2000.

Michelle Yahng, 226-6871

Bills Designating Federal Buildings

S. 1567, H.R. 1605, and H.R. 1359

Committee on Transportation and Infrastructure
H.Rept. 106-552, H.Rept 106-551, and H.Rept 106-536

Floor Situation:

The House is scheduled to consider the following three bills under suspension of the rules on Monday April 3, 2000. Each is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

S.1567 designates the United States courthouse under construction at 223 Broad Avenue in Albany, Georgia, as the "C.B. King United States Courthouse." Chevene Bowers King was born in Albany, Georgia, in 1923, served in the Navy, and later graduated from Frisk University in Nashville, Tennessee. After earning a law degree from Case Western University, King became a attorney with the NAACP Legal Defense and Education Fund. While immersed in cases involving school desegregation, voting and political rights, the right to serve on juries free of discrimination, and employment discrimination, King's legal actions lead to the passage of the 1968 Jury Selection and Service Act. Senator Coverdell introduced the bill on October 12, 1999.

H.R. 1359 designates the federal building and United States courthouse under construction at 10 East Commerce Street in Youngstown, Ohio, as the "Frank J. Battisti and Nathaniel R. Jones Federal Building and United States Courthouse." Both natives of Youngstown, Ohio, Battisti and Jones led active lives in the federal government. In addition to teaching law at Youngstown University, Battisti was appointed to the U.S. District Court for the Northern District of Ohio in 1961 and became Chief Judge in 1969. He retired in 1994 and died a year later. Judge Jones served in the U.S. Army Air Corps during World War II. Before being appointed to the U.S. Court of Appeals for the Sixth Circuit, Jones served as Assistant U.S. Attorney for the Northern District of Ohio. Jones served as Assistant General Counsel to President Johnson's National Advisory Commission on Civil Disorders in 1967 and as the NAACP's General Counsel from 1969 to 1979. Mr. Traficant introduced the bill on March 25, 1999.

H.R. 1605 designates the federal building and United States courthouse located at 402 North Walnut Street in Harrison, Arkansas, as the "J. Smith Henley Federal Building and United States Courthouse." Judge J. Smith Henley was born on May 18, 1917, in St. Joe Arkansas. Henley received his law degree in 1941 from the University of Arkansas at Fayetteville and worked in private practice from 1941 to 1945. He was a former Referee in Bankruptcy for the Western District of Arkansas 1943-1945; Associate General Counsel, Federal Communications Commission 1954-1956; and Director of the Office of Administrative Procedure, Department of Justice 1956-1958. He served as a member of the Judicial Conference Subcommittee on Supporting Personnel from 1975 to1977, and the Advisory Committee on Appellate Rules from 1978 to1984. Mr. Hutchinson introduced the bill on March 23, 2000.

Committee Action:

The Transportation Committee reported S. 1567 and H.R. 1359 by voice vote on March 23, 2000. The Transportation Committee reported H.R. 1605 by voice vote on March 16, 2000.

Eileen Harley, 226-2302

Transportation and Infrastructure Reports Restoration Act

H.R. 4052

Committee on Transportation & Infrastructure
No Report Filed
Introduced by Mr. Shuster on March 22, 2000

Floor Situation:

The House is scheduled to consider H.R. 4052 under suspension of the rules on Monday, April 3, 2000. It is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

H.R. 4052 restores certain reporting requirements for agencies under the jurisdiction of the Transportation and Infrastructure Committee that would otherwise be eliminated as part of the Federal Reports Elimination and Sunshine Act of 1995 (*P.L. 104-66*). Section 3003 of that Act eliminated thousands of reports that had been required by the Congress. The 1995 Act had provided for a sunset date of December 21, 1999. Section 236 of the Omnibus Appropriations Act for fiscal year 2000, (*P.L. 106-113*), extended this deadline until May 15, 2000. While the Federal Reports Elimination and Sunshine Act will reduce unnecessary paperwork and reduce agency expenditures, it also inadvertently deleted the requirement for certain reports that the Committee believes are necessary in executing its oversight responsibilities. H.R. 4052 corrects this by providing that the 1995 Act does not apply to specified reports. This will affect a small percentage of the total number of reporting requirements eliminated by the Federal Reports Elimination and Sunshine Act. The reports that will be exempted relate to the environment and water resources, surface transportation, emergency management, the Coast Guard and Maritime Transportation, economic development, and railroads.

Costs/Committee Action:

A CBO cost estimate was unavailable at press time.

The bill reported out of the Committee by voice vote on March 23, 2000.

Brendan Shields, 226-0378

Sense of Congress Concerning the Participation of the Extremist FPO in the Austrian Government

H.Res. 429

Committee on International Relations
No Report Filed
Introduced by Mr. Lantos on March 1, 2000

Floor Situation:

The House is scheduled to consider the following two bills under suspension of the rules on Monday, April 3, 2000. It is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

H.Res. 429 expresses the sense of the House of Representatives concerning the participation of the extremist FPO in the Government of Austria. The measure recognizes the right of the Austrian people to express their political views through a democratic election, but also reaffirms the right and the obligation of the United States House of Representatives to express its opposition to the anti-democratic, racist and xenophobic views of Joerg Haider and other leaders of the FPO. Because of these publicly expressed views, Congress wishes to express its opposition to FPO's participation in the Austrian Government. In addition, the measure: (1) expresses profound regret and dismay that the FPO will play a major role in the new Government of Austria; (2) commends the leaders of the European Union, the fourteen other member states of the European Union, Canada, Norway, and other countries which have expressed their serious concerns regarding the participation of the FPO in the Government of Austria; (3) calls upon the President, the Secretary of State, and other officials and agencies of the United States Government to emphasize to Austrian Government officials our concern about the inclusion of any party in the Government of Austria, including the FPO, that has been associated with xenophobic, racist policies, and statements supportive of Nazi-era programs; (4) urges Members of Congress to use any meetings with ministers and other political leaders of the Government of Austria to encourage Austria's continued adherence to democratic standards and full respect for human rights; (5) calls upon the Secretary of State to continue to scrutinize the policies of the new Government of Austria and to be prepared to take additional steps if circumstances so warrant; and (6) directs the Clerk of the House to send a copy of this resolution to the Secretary of State with the request that it be forwarded to the President of Austria.

Brendan Shields. 226-0378

Mutual Fund Tax Awareness Act

H.R. 1089

Committee on Commerce
H.Rept. 106-547
Introduced by Mr. Gillmor *et al*. on March 11, 1999

Floor Situation:

The House is scheduled to consider H.R. 1089 under suspension of the rules on Monday, April 3, 2000. It is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

H.R. 1089 requires the Securities and Exchange Commission to revise regulations under the Securities Act of 1933 and the Investment Company Act of 1940 to require, consistent with the protection of investors and the public interest, improved disclosure in investment company prospectuses or annual reports of after-tax returns to investors.

The bill finds: (1) taxes can be the single biggest cost associated with mutual funds. The average stock fund investor has lost up to 3 percentage points of return every year to taxes; (2) the average portfolio turnover rate for an actively managed (nonindex) fund has increased from 30 percent 20 years ago to almost 90 percent today, and average capital gains distributions of growth funds, per share, have more than doubled in the last 10 years; (3) if a fund's performance is based mostly on short-term gains, investors can lose a significant part of their return to taxes; (4) performance figures that mutual funds generally disclose to their shareholders are net of fees and expenses, but not taxes, and therefore do not represent the impact taxes have on an investor's return; (5) the new requirements focus on how much money investors made before taxes, and not on how much money investors can keep; (6) improved disclosure of the effect of taxes on mutual fund performance allows shareholders to compare after-tax returns to raw performance, and permits investors to determine whether the fund managers have tried to minimize tax consequences to shareholders; (7) that a mutual fund prospectus details the average annual portfolio turnover rate, it may not expressly inform shareholders about the impact the portfolio turnover rate has on total returns.

Background:

Compared to other investment and savings options mutual funds are relatively tax efficient due to their ability to generate returns that can be taxed at more favorable long-term capital gains rates. A recent dramatic increase in mutual fund shareholders and concerns about costs associated with investing in funds with taxable accounts has created a need for increased protections for investors. Access to basic facts about tax consequences to shareholders is vital. The SEC, which oversees investment information, requires that the general effect of investing in mutual funds be disclosed to investors in a fund prospectus. Mutual

funds must inform investors of the tax consequences to shareholders of buying, holding, exchanging, and selling fund shares, as well as the consequences of increased portfolio turnover and its' effect on a fund's performance.

Past performance figures, which are currently disclosed to shareholders, fail to take into account the significant impact taxes have on an investor's rate of return. *Morningstar* (a leading independent reporter of mutual funds, stock, and variable annuity investment information) determined that while 15 percent of annual gains are surrendered to taxes, investors remain unaware of more favorable fund investment strategies that could reduce their tax burden. Inconsistent and misleading performance reporting can adversely affect an individual's investment. Better knowledge of after-tax returns will provide investors with more options that can improve their investment decisions.

An Oct 29, 1999 hearing on the bill before the Commerce Subcommittee on Finance and Hazardous Materials disclosed the need for improved disclosure of after-tax returns figures. Third party providers and mutual funds are responding to this growing investor demand through internet tools. However the committee believes that the standardized disclosures called for by this legislation will assist investors in understanding the impact of tax costs and encourage investors to compare the impact of taxes on other fund performances.

Costs/Committee Action:

CBO estimates that enactment of H.R. 1089 will result have no impact on the federal budget. The bill does not affect direct spending; so pay-as-you-go procedures do not apply.

The Commerce Committee reported the bill by voice vote on March 15, 2000.

Eileen Harley, 226-2302

Awarding the Congressional Gold Medal to President and Mrs. Ronald Reagan

H. R. 3591

Committee on Baking and Financial Services
No Report Filed
Introduced by Mr. Gibbons *et.al.* on February 8, 2000

Floor Situation:

The House is scheduled to consider H. R. 3591 under suspension of the rules on Monday, April 3, 2000. It is debatable for 40 minutes, may not be amended, and requires a two-thirds majority vote for passage.

Summary:

H. R. 3591 awards the gold medal on behalf of the Congress to former President Ronald Reagan and Mrs. Nancy Reagan in recognition of their service to the nation. Both former President Reagan and Mrs. Reagan have distinguished records of public service to the United States, the American people and the international community. President Reagan restored 'the great, confident roar of American progress, growth, and optimism', a pledge made by Mr. Reagan prior to his election in 1980. President Reagan's leadership was also instrumental in bringing about an end to the cold war and allowing the United States to enjoy sustained economic growth and prosperity. Mrs. Nancy Reagan, in addition to serving as a gracious First Lady, was an active proponent for the prevention of drug and alcohol use by America's youth by promoting the "Just Say No" Campaign. The bill authorizes the design and striking of the gold medal and an amount not to exceed $30,000 for that purpose. It also authorizes the striking of duplicate medals in bronze for sale to the public, the proceeds from which are deposited in the United States Mint Public Enterprise Fund.

Costs/Committee Action:

A CBO cost estimate was unavailable at press time.

The bill was not considered by a House committee.

Eric Hultman, 226-2304

Wildlife and Sport Fish Restoration Programs Improvement Act of 2000

H.R. 3671

Committee on Resources
H.Rept. 106-554
Introduced by Mr. Young (AK) *et al.* on February 16, 2000

Floor Situation:

The House is scheduled to consider H.R. 3671 on Tuesday, April 4, 2000. The Rules Committee is scheduled to meet on the bill at 6:30 p.m. on Monday, April 3. Additional information on the rule and potential amendments will be provided in a *FloorPrep* prior to floor consideration.

Summary:

H.R. 3671 ensures that the funds allocated for administration of both the 1937 Pittman-Robertson Wildlife Restoration Act and the 1950 Dingell-Johnson Sport Fish Restoration Act, are used for their intended purposes. These acts levy excise taxes on guns, ammo, archery equipment, and fishing equipment to fund state wildlife programs. Currently up to 8 percent of the funds collected under the Pittman-Robertson Act and up to 6 percent of the funds collected under the Dingell-Johnson Act may be used to administer and execute the allocation of the excise taxes. The bill corrects misuse of these funds by the Federal Aid division of United States Fish and Wildlife Service (FWS). In FY 1998 the funds used for administration totaled $30.8 million.

The bill makes a number of identical changes to both laws to harmonize the allocation and oversight of administrative funds. These amendments include:

* establishing a cap of $5 million annually for FYs 2001-2003 to fund administrative costs and up to $7 million annually for administrative costs adjusted for inflation thereafter;
* creating 12 categories of administrative expenses that costs must fall under in order to be used;
* prohibiting administrative funds from being used to supplement any function for which general appropriations for the FWS are made; and
* returns any unused funds to the states within 60 days of the end of the fiscal year.

H.R. 3671 also establishes a number of rules to audit the administration of both acts, to prohibit the misuse of the administrative funds. These include biennial audits by auditors who are independent of the FWS and supervised by the Inspector General of the Department of Interior. The bill also requires providing the audit reports to the House Committee on Resources and the Senate Committee on Environment and Public Works.

The measure also establishes a number of annual certifications designed to create more thorough oversight of the Federal Aid Program's administrative funds. This includes (1) certification within 30 days of the end of each fiscal year by the Secretary of the Interior to the Secretary of the Treasury and to each state fish

and game department the amount of funds apportioned to each state and the amount of funds obligated for administrative costs; (2) certification by the Interior Secretary within three months of the end of each fiscal year, that the amount of funds for administration, the amount of administrative funds reapportioned to the states, results of the audits, that all administrative costs for the acts were found to be necessary; and (3) an accounting by the Interior Secretary at the beginning of each year of all funds expected to be used during that fiscal year.

H.R. 3671 provides $2.5 million for Multi-state Conservation Grant programs. These grants will be available for programs that benefit at least 26 states, a majority of states in a U.S. Fish and Wildlife region, or a majority of states in a regional association of state fish and game departments. The grants will be awarded based only on a priority list of wildlife conservation projects developed by state fish and game departments under the direction of the International Association of Fish and Wildlife Agencies. The federal government may provide a maximum of 75 percent of the funding for any program, and any funds left unobligated at the end of a year are apportioned back to the states.

The bill creates an Assistant Director for Wildlife and Sport Fish Restoration Programs to administer and oversee the Wildlife and Sport Fish Restoration Programs under the Director of Fish and Wildlife Service, while eliminating the Chief of the Division of Federal Aid or any similar position.

The bill also makes $7.5 million available through FY 2003 and no less than $5.5 million annually for FY 2004 and beyond to fund and coordinate hunter education, sporting firearm, and bow hunter safety programs. Under the Fish Restoration Act, $200,000 shall be available for a number of regional Marine Fishery Commissions.

Background:

In December 1998, the Resources Committee asked the GAO to audit the FWS Division of Federal Aid's use of funding dedicated solely for administrative purposes. In March, 1999 the committee began oversight hearings as well. In FY 1998 the funds allocated for administrative purposes totaled $30.8 million.

Due to a lack of documentation explaining how and where the administration and execution funds were spent, GAO investigators were unable to determine how the funds were used. In the course of holding three oversight hearings, the Resources Committee determined that the funds withheld by the Fish and Wildlife Service to administer and execute the Pittman-Robertson and Dingell-Johnson acts were used to fund unrelated expenses. Furthermore, funds dedicated to administering the acts were used irresponsibly. The GAO called the Federal Aid program "one of the worst managed programs" it had encountered.

Some examples of misuse of the funds include the Fish and Wildlife Service's use of the Federal Aid administrative funds as an income stream, which the service charged a disproportionately high amount for "overhead" expenses, and then using such funds to cover expenses elsewhere in the agency. One example is the FWS Director's Conservation Fund, which drew $1 million annually from the Federal Aid administration funds, but was not authorized by either Act's statute and was controlled exclusively by the Director of the FWS. Federal Aid funds were also improperly used to pay for travel expenses and use in regional offices.

Because the Federal Aid Program is not subject to annual appropriations, and no routine audits are per-

formed, it has very little public oversight. Since the program receives dedicated tax revenue, its officials do not have to publicly justify its spending. Furthermore, bi-annual reports on its programs do not fully disclose all of its spending. A 1993 audit by the GAO found deficiencies in the program's bookkeeping. The GAO does not believe that on its own the FWS will sufficiently remedy the problems identified in audits performed in 1993 and 1998.

H.R. 3671 is designed to correct the misuse of administrative funds by the FWS and eliminate the authority of the service to spend administrative funds on other projects. Furthermore, it imposes a number of certification and auditing requirements, which is intended to establish regular oversight of Federal Aid administrative expenditures.

Costs/Committee Action:

CBO estimates that enactment of H.R. 3671 will have no significant impact on the federal budget. The measure affects direct spending, so pay-as-you-go procedures apply.

The Resources Committee reported the bill by a vote of 36-0 on March 15, 2000.

Greg Mesack, 226-2305

Organ Procurement and Transplantation Network Amendments of 1999 H.R. 2418

Committee on Commerce
H.Rept. 106-429
Introduced by Mr. Bilirakis on July 1, 1999

Floor Situation:

The House is scheduled to consider H.R. 2418 on Tuesday April 4, 2000. The Rules Committee is scheduled to meet on the bill at 6:30 p.m. on Monday, April 3. Additional information on the rule and potential amendments will be provided in a *FloorPrep* prior to floor consideration.

Summary:

The bill amends the Public Health Service Act to revise and extend programs relating to organ procurement and transplantation. It also requires the Organ Procurement and Transportation Network to carry out studies and demonstration projects to improve procedures for organ procurement and allocation. In addition, the bill mandates the development of a peer review system to assure that members of the Network comply with appropriate medical and other specified criteria. The Health and Human Services Secretary is directed to establish additional procedures for providing oversight of, and public accountability for, operation of the Network. Furthermore, the bill authorizes the Secretary to award grants or contracts for payment of travel and subsistence expenses incurred toward living organ donation and studies and demonstration projects. Finally, to ensure that the public is made more aware about organ donation the Secretary is directed to carry out a public education campaign.

H.R. 2418 makes clear that the Secretary of Health and Human Services has important oversight duties, but that policy-making is clearly the responsibility of the Organ Procurement and Transplantation Network. In addition to clarifying the role of Secretarial authority, H.R. 2418 also addresses the underlying problem of an inadequate organ supply by promoting incentives to increase organ donation (e.g., the bill includes innovative provisions to help reduce the financial burden on living donors who donate an organ to someone living in another state).

Background:

Solid organ transplantation is one of the most complex medical and surgical procedures performed in medicine today. There are just not enough organs for the people who need them. About 20,000 organ transplants are performed annually, but the demand is nearly twice that number. The need for transplants among patients with organ disease and organ failure is the greatest. Every year the number of patients who die while waiting for a transplant increases, as does the national waiting list, which has more than 65,000 patients waiting for kidney, liver, heart, lung, pancreas, and intestine transplants.

In an effort to assist transplant centers to facilitate the sharing of organs through a clearinghouse of similar institutions, the National Organ Transplant Act of 1984 directed the Secretary of the Department of Health and Human Services (HHS) to establish (by contract) the Organ Procurement and Transplantation Network (OPTN or the Network), that would establish the policies to govern allocation of organs throughout the country. NOTA also established the Task Force on Organ Transplantation for the purpose of conducting a comprehensive studies on medical, social, economic, and ethical issues related to organ transplantation. The Task Force published a report in 1986 offering recommendations including a call for the establishment of a national system or network for matching organ donors with organ transplant recipients. The Task Force recommended that members of the OPTN adopt uniform policies for the OPTN and to improve efforts in public education to increase organ donation. On September 30, 1986, HHS awarded the contract to establish and run the OPTN to the United Network for Organ Sharing (UNOS), a private, nonprofit corporation.

One recommendation the Task Force made to Congress in 1986 is that information be published annually to inform the public of the status of organ transplant activity at each transplant center. Subsequently, section 373 of NOTA established the Scientific Registry. The purpose of the Scientific Registry is to maintain information on patients and transplants and transplant procedures for assessing the scientific and clinical status of organ transplantation. Currently, the Scientific Registry maintains a data request system and produces an annual statistical report for the public and a report on patient survival rates. UNOS also competed for and won the contract from HHS to operate the Scientific Registry.

In 1984, Congress established a private sector entity to encourage and facilitate the effort of organ procurement and transplantation throughout the country so that this vital issue is removed from the political process. By doing so, Congress recognized that the management and formulation of policies applicable to this field of medicine is best left in the expert hands of the medical community, the patients, and donor families who are most directly affected. The role of the Federal government in this network has been carefully restricted by statute to providing technical assistance to the private sector together with appropriate oversight of Federal funding.

More recently, on April 2, 1998, the Secretary of Health and Human Services issued a Final Rule regarding implementation of the NOTA (*42 U.S.C. 274*), which contained provisions that ran counter to fifteen years of Congressional legislation. The Final Rule drew immediate and widespread criticism throughout the transplant community of transplant surgeons and physicians, affiliated healthcare professionals, patients, donors and their families, and State and local governments. H.R. 2418 responds to Secretarial claims made in the regulation, amends and restates provisions of the NOTA to clarify and reaffirm the Act's existing provisions, and where necessary, adds new provisions to address concerns raised in Committee hearings.

Costs/Committee Action:

CBO estimates that H.R. 2418 will cost $8 million in 2000 and a total of $101 million from 2000 through 2004, without adjusting for inflation, and $108 million if inflation adjustments are included. The legislation does not affect direct spending or receipts so pay-as-you-go procedures do not apply.

The Commerce Committee reported the bill by voice vote on October 13, 1999.

Brendan Shields, 226-0378

Partial-Birth Abortion Ban Act

H.R. 3660

Committee on the Judiciary
No Reports Filed
Introduced by Mr. Canady *et al*. on February 15, 2000

Floor Situation:

The House is scheduled to consider of H.R. 3660 on Thursday, April 6, 2000. The Rules Committee is scheduled to meet on 1 p.m., Tuesday, April 4. Additional information on the rule and any amendments made in order will be faxed to all Republican offices in a *FloorPrep* prior to floor consideration.

Summary:

H.R. 3660 prohibits abortion providers from utilizing partial-birth abortion procedures. As defined by the bill, such a procedure involves a partial vaginal delivery of a living unborn child until some portion of the child is partially outside the body of the mother before killing it and completing the delivery. The bill imposes fines or potential imprisonment of up to two years, and allows the father (if he's married to the mother) or maternal grandparents (if the birth mother is under 18 years of age) to file a civil lawsuit against the doctor for monetary damages. The bill, however, includes an exception to the ban when a doctor performs this procedure to save the life of the mother.

Background:

The Abortion Issue

The issue of abortion has been at the forefront of American medicine, law, and politics since the late 1960s. However, its history in the U.S. dates as far back to the mid-19th century. At the time of the Civil War, most states had enacted laws prohibiting abortion except for certain life-threatening circumstances for the mother. American law continued to support this position generally until the mid 1960s, as the law evolved to provide that abortions could be legal in cases other than life-threatening circumstances for the mother. Since abortion regulation was a matter of state practice up to this point, most challenges leading to the landmark decision of *Roe v. Wade* were heard in state courts with varied results.

In 1973, the U.S. Supreme Court heard arguments for two abortion cases—*Roe v. Wade* and *Doe v. Bolton*—in response to lawsuits filed to challenge abortion statutes in Texas and Georgia. Both Court decisions established a woman's right to decide to have an abortion (elective abortion) based on a right to "privacy" found in the Constitution's 14th Amendment. However, *Roe* acknowledged a legitimate state's interest in protecting the mother and the unborn child and provided an opportunity to intervene in an abortion decision when acting to preserve the mother's health or protect potential life. The Roe Court established a trimester framework during which the State's interests in maternal health and potential life become increasingly compelling, and therefore, the State's ability to regulate abortion increased each

trimester of pregnancy. Additionally in *Doe*, the Court cautioned that states may not regulate in such a way as to make legal abortions unreasonably difficult to obtain by prescribing elaborate procedural barriers.

Also in *Doe*, the Court defined exceptions for the "health of the mother." At the time, many state prohibitions on abortion provided exceptions whenever the procedure was necessary to protect the life and/or health of the mother. Most state legislatures intended health to be a narrow exception for situations where the mother's reproductive health was endangered. However, the Court ruled in *Doe* that "health" includes "all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well-being of the patient." Because of its broad application, pro-life supporters argue that an exemption for the health of the mother has the practical effect of legalizing abortion at any stage of pregnancy.

A series of cases continued to outline acceptable restrictions for abortion practices and state regulation. In 1989, the Court reviewed *Webster v. Reproductive Health Services* and found, among other things, that states may require physicians, who determine that a woman desiring an abortion is at least 20 weeks pregnant, to perform tests to determine whether the child is viable. Moreover, the Court in *Webster* splintered on the issue of whether viability should be the beginning point of a state's interest in regulating abortion decisions. Only three of the five justices writing the majority opinion agreed that the trimester structure should be overturned, thus leaving the trimester hierarchy unchanged.

In 1992, the Court heard arguments for *Planned Parenthood of Southeastern Pennsylvania v. Casey*. In this decision, the Court reaffirmed its position in *Roe* of a constitutional right to have an elective abortion; however, it officially overturned the trimester hierarchy which controlled the timing of the state's interest in an abortion decision. Instead, the Court stipulated that (1) the government has a right to protect the potential of human life from conception and throughout the course of the pregnancy; (2) states may not impose an "undue burden" on a woman's right to obtain an abortion (placing a substantial obstacle in the path of a woman seeking an abortion of a nonviable human); and (3) doctors may not be held liable for violating a state's abortion restrictions if the abortion was performed to save the life of the mother.

Legislative History

Congress has debated the issue of abortion heavily since the early 1970s. Moves to restrict or expand abortion activity have taken the form of constitutional amendments, free-standing bills, and amendments to appropriations legislation.

Constitutional Amendments. Legislation to amend the U.S. constitution is the least attempted of all alternatives to change abortion law, because of the supermajority of votes needed for congressional passage as well as for the process of state ratification (a constitutional amendment must be passed by two-thirds of each chamber in Congress and then ratified by two-thirds of the state legislatures). Despite the difficulty of amending the Constitution, Congress has periodically considered potential amendments both to restrict abortion and to expand protections for it. Senator Hatch introduced a measure in the 98th Congress to return abortion policymaking decisions to the states by declaring that the Constitution does not secure a right to an abortion. This resolution was the only legislation to receive floor debate and be voted on in either chamber; it was ultimately defeated by a vote of 50-49. Abortion rights supporters have also attempting to codify the *Roe* decision with a Freedom of Choice Amendment; however, like amendments to outlaw abortion, this measure has had equal difficulty passing Congress. Other constitutional amendments introduced in both the House and Senate usually languished in committee.

Statutory Provisions. Several bills have sought to prohibit abortion directly by statute instead of amending the Constitution. Members depend on Section 5 of the Constitution's 14th amendment, which empowers Congress to enforce the due process and equal protection guarantees of the amendment "by appropriate legislation." Among such legislation was S. 158, introduced in the 97th Congress, which would have declared as a congressional finding that life begins at conception and states could, therefore, enact legislation to protect all life, including the unborn. In 1983, Congressman Hyde introduced similar legislation in H.R. 618. Mr. Hyde's bill qualified that if the mother's life were endangered by carrying a child to term, an abortion would not be unlawful. Mr. Hyde's bill also prohibited federal funding, personnel, and institutions from supporting abortions. Ultimately, neither bill was considered beyond the committee level.

Efforts to Restrict Federal Funding for Abortions. Other legislative efforts regarding abortion include amendments to authorization and appropriations bills, characteristically known as "Hyde Amendments" for their restrictive approach to deny federal funding for abortion practices. Since *Roe*, numerous bills have included language to restrict federal funding for abortion. These bills include the following:

* 1973 Foreign Assistance Act *(P.L. 93-189)*—restricted abortions funded by Medicaid programs under the Department of Health, Education, and Welfare (now Health and Human Services);

* FY 1977 Departments of Labor and Health, Education and Welfare Appropriations Act *(P.L. 94-439)*; FY 1984 Department of Defense Appropriation Act *(P.L. 98-525)*; FY 1979 District of Columbia Appropriations Act *(P.L. 96-93)*; FY 1984 Department of the Treasury and Postal Service Appropriations Act—all prohibited federal funding for abortions except when the life of the mother would be endangered if the child were carried to term; and

* FY 1987 Continuing Resolution (*P.L. 99-591*)—added rape as a permissible abortion circumstance.

Other legislation containing abortion restrictions included (1) the Legal Services Corporation Act of 1974 (*P.L. 93-355*); (2) the Pregnancy Disability Amendment to Title VII of the Civil Rights Act of 1964 (*P.L. 95-555*); and Title IX of the Budget Reconciliation Act of 1981, (*P.L. 97-35*) Rep. Hyde, chairman of the Judiciary Committee, has successfully blocked federal funding for abortion through appropriated funds for many years. Although his restrictions have included exceptions for when the mother's life is endangered, he has modified his amendment recently to include exceptions for pregnancies resulting from rape or incest.

Partial-Birth Abortion Procedure

Several procedures exist that doctors may employ to terminate a pregnancy. Among them is the partial-birth abortion procedure, which requires that a living baby be partly delivered until some portion of the child is outside the body of the mother and subsequently killed before completing the delivery. This method was originally intended to be used with women who are at least 20 weeks (4.5 months)—and up to nine months—along in their pregnancies. The process consists of the following:

* when a woman decides to have an abortion, she must be treated for two days prior to the actual abortion. The doctor artificially dilates the cervix, thereby creating an opening of adequate size for the baby's delivery;

* on the third day, the doctor, guided by an ultrasound device which provides an outline of the child while still in the womb, takes hold of one of the baby's legs with forceps;

* the leg is pulled into the birth canal and fully delivered. The other leg is then accessed and delivered, followed by the baby's entire body except for the head. This is considered a "breech delivery";

* the doctor uses one hand to trace the spine up to the base of the baby's skull. With Metzenbaum scissors, the doctor penetrates the base of the baby's skull, spreading the scissors open to create a passageway for a suction catheter to be inserted;

* the baby's brains are extracted with the suction device, causing the skull to collapse—at which point the child dies—allowing the baby to be fully delivered;

* the placenta is subsequently delivered, and all remains discarded as medical waste.

This procedure is publicly touted by two doctors, Dr. James McMahon and Dr. Martin Haskell. As pioneers of the procedure, they explain it as the safest, most effective way of terminating a pregnancy for the mother's sake.

No certain figures or estimates are available on the total number of partial-birth abortions performed nationwide; that is, no figures are available on which both sides of this debate agree. A 1990 article from the *Los Angeles Times* quotes Dr. McMahon as having performed between 3,000 and 4,000 at that time in his career. Former Surgeon General C. Everett Koop estimated in 1984 that approximately 4,000 are performed annually. Dr. McMahon acknowledged that 80 percent of the late-term abortions he performed with this method were "purely elective." Dr. Haskell agrees that a majority of his patients are choosing to have partial-birth abortions for non-medical reasons, and has stated that he believes Dr. Koop's figure is the most accurate estimation.

As the public has received information on this issue, pro-life advocates have continually raised concerns over the number of partial-birth abortions clinics have actually performed each year, as opposed to figures offered by abortion rights advocates. In one development, a high-ranking representative of abortion practitioners, Robert Fitzsimmons, revealed that advocates have not accurately represented abortion statistics in the course of debate on this issue. "[T]he procedure is performed far more often than [my] colleagues have acknowledged, and on healthy women bearing healthy [children]." Fitzsimmons' statements support the belief that a significant number of abortions performed annually occur using the partial-birth method.

Abortion supporters continue to assert, however, that of the 1.5 million abortions which occur each year, only one percent are performed using the partial-birth abortion method. Moreover, they argue that the procedure is overall safest for the health of the mother.

On the other hand, pro-life supporters claim that (1) this procedure is especially brutal and too barbaric to be performed on any living child for any reason; (2) the American Medical Association has stated that the partial-birth abortion procedure is "not good medicine" and is not medically indicated in any situation; and (3) the child is a 'person' under the Supreme Court's reasoning in *Roe*, which flatly rejects an *unborn* child from being a 'legal' person, but does not address the situation of a child *in the process of being born*, which takes place during the partial-birth abortion procedure. In fact, the Roe Court expressly acknowl-

edged that a Texas statute that made the killing of a child during birth a felony had not been challenged and was not affected by the decision. Thus, proponents of the bill defend its constitutionality based on *Roe's* silence on the issue of the personhood of babies in the process of birth and *Casey's* reasoning, which authenticates a state's interest in protecting unborn children in the 'later stages of pregnancy' so long as the state does not impose an unreasonable burden on the birth mother's decision to pursue an abortion.

Legislation to Ban Partial-Birth Abortions

During the 104th Congress, both the House and Senate passed H.R. 1833, which was similar to this year's measure except for a different definition of "partial \-birth abortion" and a more limited 'life of the mother' provision. President Clinton vetoed the measure on April 10, 1996, arguing that it did not include an exception for the health of the mother. In a nearly successful attempt to override the president's veto, the House supported a veto override by a vote of 285-137 on September 19, 1996, while the Senate sustained the veto by a vote of 57-41 on September 26.

In the 105th Congress, The Partial-Birth Abortion Ban Act (S. 6—H.R. 1122) also failed to win enough support to override a Presidential veto. It passed by the House on March 20, 1997 by a vote of 295-136, and by the Senate on May 20, 1997 by a vote of 64-36. However, it was vetoed by the President on October 10, 1997. On July 23, 1998, the vote to override the President's veto was successful in the House, but failed to achieve the necessary two-thirds majority in the Senate

Recent Events

The Senate passed the 1999 Partial-Birth Abortion Ban Act (S. 661—H.R. 1218) on October 21, 1999 by a vote of 63-34. However, abortion legislation is not just debated as a stand-alone measure. Abortion-funding riders were included in five of the thirteen appropriations measures for FY2000. The Commerce, Justice, State appropriations measure, the District of Columbia appropriations measure, the Foreign Operations appropriations measure, the Labor/Health and Human Services/Education appropriations measure, and the Treasury/Postal Service appropriations measures each contained some sort of abortion restrictions. In addition, the State Department authorization bill for FY 2000 and FY 2001 contains similar restrictions.

On January 14, 2000, the U.S. Supreme Court agreed to hear arguments in *Stenberg v. Carhart*. This case involves the constitutionality of a Nebraska statute that bans partial-birth abortions. This case will be the first abortion case to be heard by the Court since 1992.

Arguments For and Against the Bill

Arguments For H.R. 3660

The partial-birth abortion procedure is infanticide—it is regarded as abhorrent even by many who favor unrestricted access to first trimester abortions. In fact, the American Medical Association and hundreds of professors and specialists in obstettics and related fields have made it clear that the procedure is bad medicine and is not medically indicated in any situation. Abortionists would have America believe that protecting expectant mothers' rights to kill an unborn child is humane. Unfortunately, they fail to acknowledge what is universally accepted truth and plain common sense: stabbing a partially-born infant in the

back of the head and sucking out its brains *hurts*. It is painful. It is wrong.

Abortion rights activists have been trying to tell America for years that abortions happen only in circumstances where a mother has considered all other options, is carrying a baby that is loved and very much wanted, yet that mother's personal circumstances make it simply unfair to the child to bring it into the world. What these same people will not tell you is that they're lying.

Take the example of Ron Fitzsimmons, a leading abortion rights advocate and ardent defender of the partial-birth abortion method. After several years of vocally defending this procedure and minimizing its impact on our society, he—after experiencing a personal epiphany—confessed to the world that he "lied through his teeth" in 1995 about this procedure's frequency. He asserted previously, as do all abortion supporters, that this method of terminating lives is used infrequently, resulting in only several hundred abortions each year. Now, he says, thanks to the promulgation of "spins" and "half-truths," America is just now realizing that many thousands of lives are lost each year to abortion by this very method. His best explanation for his latest confession? *American Medical News*, a trade journal for medical professionals, quotes him as saying, "When you're a doctor who does these abortions and the leaders of your movement appear before Congress...and say these procedures are done in only the most tragic of circumstances, how do you think it makes you feel? You know they're primarily done on healthy women and healthy [children], and it makes you feel like a dirty little abortionist with a dirty little secret." Well put, Mr. Fitzsimmons.

The myth perpetuated by the Left is that the barbaric practice of partial-birth abortions is used on a limited basis in only the most extreme circumstances. It is easy enough to get them to speak for themselves. Take Jane Johnson and Diane Zuckerman, both leaders of the Planned Parenthood Federation of America (PPFA), who were quoted in PPFA press releases. According to Johnson: "These surgeries are exceedingly rare and usually performed when a woman's life or health is threatened. Indeed, in most cases, these are wanted pregnancies gone horribly wrong." Zuckerman agrees: "The truth is that the [partial-birth abortion] procedure is only used when the woman's life or health is in danger in cases of extreme fetal anomaly."

However, several hundred medical professionals on local, state, and national levels—include former Surgeon General C. Everett Koop—certify that nothing could be a greater distortion of the truth. In fact, in an August 1996 interview with *American Medical News*, he said: "In no way can I twist my mind to see that the late-term abortion as described, you know, partial-birth, and then destruction of the unborn child before the head is born—is a medical necessity for the mother." As for the rarity of the procedure, Bergen County, New Jersey newspaper reporter Ruth Padawer cited one local clinic, which had performed over 1,500 partial-birth abortions as of the date of her September 1996 article on the subject. And that was merely one clinic! So much for rarity.

Supporters of partial-birth abortion cynically believe that most Americans can be duped by their rhetoric on the issue of partial-birth abortions despite the public's overwhelming repulsion with this procedure and those who defend it. Thankfully, the American people have proven themselves to be champions of virtue when they cry out against unjust practices in our nation—particularly where government sanction may be involved. They recognize that doing so protects our society against heinous crimes committed against the citizenry. Outlawing the use of partial-birth abortions is no less a civic calling. Americans in all stations in life realize that the Left has not told the truth: the procedure is not rare, is not medically necessary, and is not right. Vote for this bill and against this inane and grisly procedure.

Arguments Against H.R. 3660

By targeting partial-birth abortion, antiabortion advocates prove that they do not care for women; their real agenda is to obliterate the rights of women to maintain control over their bodies by removing all legal abortions from the protection of public law. Any American who cares for his fellow citizens cannot allow this to happen. Partial-birth abortion is neither wrong nor inhumane; it is a matter of protecting the individual right of a woman to make a difficult personal choice with her physician, her family, and her God. Partial-birth abortions are not pretty, but in most cases are medically necessary to preserve a woman's health and childbearing future. Shouldn't what is necessary for a woman's health be judged by a medical professional rather than politicians? Any believer in freedom should carefully consider the costs of abridging individual choice of any kind in any way; to limit any one choice is to limit choices and freedom for all.

In 20th century America, individual rights should be sacrosanct. Yet there are still people in this country who believe that legislating what personal medical decisions a person can make for themselves is, somehow, moral. In fact, what opponents of individual choice fail to realize is that denying a woman the right to choose to terminate a pregnancy neither encourages freedom or the rights of children.

Thousands of children are born in America every day into miserable living conditions: to mothers addicted to drugs, parents too young or otherwise ill-prepared to take on the mantle of parental responsibilities; to families struggling to provide for themselves under already oppressive conditions of un- or under-employment such that an additional child merely creates an increased financial burden.

Antiabortion advocates, specifically many members of the Republican-led Congress, claim to support the rights of unborn fetuses to teenage mothers while eviscerating the very social programs that ensure those mothers can afford to feed and care for their families. Single parents, likewise, find no allies in a conservative Congress. By eliminating funding for programs for the poor and underprivileged—important initiatives related to Medicare, Medicaid, education, and the environment—conservatives are steering America back to a dangerous period where back alley abortions occurred regularly because poor mothers, victimized by their own financial positions, were unable to afford adequate medical care or, as in many cases, access to proper health and sex education which would help them in making life-altering decisions like having children.

H.R. 3660 is bad medicine, bad policy, and intrusive government at its worst. The proponents of H.R. 3660 are avowed opponents of a woman's right to reproductive choice and *Roe* v. *Wade*. Yet they know that Americans overwhelmingly support a woman's right to choose, to make decisions about her reproductive health. So they avoid a clear head-on assault of abortion rights—they don't have the political courage to offer a constitutional amendment so they chip away at it procedure by procedure.

This is not an abstract debate at the margins of the abortion issue. Passage of H.R. 3660 will harm real women and their families. It will substantially erode *Roe* v. *Wade* and women's constitutional rights. Because the bill interferes with the health of women at a point in their lives when they and their families must make profoundly intimate, private decisions, because it severely restricts the judgment of doctors for performing safe, necessary medical procedures—defenders of choice should oppose this bill.

Costs/Committee Action:

CBO estimates that enacting H.R. 3660 will have no significant impact on the federal budget.

H.R. 3660 was not considered by a Committee.

Other Information:

"Abortion: Legislative Response" *CRS Report IB95095*, March 24, 2000. "Lies and Late-Term Abortions," *The Washington Post*, March 4, 1997, p. A24; "Medicine Adds to Debate on Late-Term Abortion," *American Medical News*, March 3, 1997, Vol. 40, #9, p. 3; "Partial-Birth Abortion is Bad Medicine," *The Wall Street Journal*, September 19, 1996, p. A22; "Abortion: Legislative Response," *CRS Issue Brief IB 95095*, October 12, 1995; "...As AMA May Back Late-term Abortion Procedure Ban," *National Journal's Congress Daily*, October 10, 1995, p. 1; "The Abortion of Last Resort," *Los Angeles Times Magazine*, January 7, 1990, Vol. 6, No. 1, p. 10; "Panel Approves Stiff Penalties for 'Partial-Birth' Procedure," *Congressional Quarterly Weekly Report*, July 22, 1995, p. 2197; and "Abortion Law Development: A Brief Overview," *CRS Reports*, June 16, 1995.

Brendan Shields. 226-0378

American Homeownership and Economic Opportunity Act
H.R. 1776

Committee on Banking & Financial Services
H.Rept. 106-533
Introduced by Mr. Lazio *et al.* on May 12, 1999

Floor Situation:

The House is scheduled to consider H.R. 1776 on Thursday, April 6, 2000. The Rules Committee has not yet scheduled a time to meet on the bill. Additional information on the rule and potential amendments will be provided in a *FloorPrep* prior to floor consideration.

Highlights:

H.R. 1776 contains a number of significant initiatives to encourage homeownership by all Americans. It reduces barriers to affordable housing by authorizing grants to states and local governments to remove regulatory barriers to homeownership. The proposal requires all federal agencies to include a housing impact analysis to certify that proposed regulations will have no significant negative impact on the availability of affordable housing. Local nonprofit and community development groups may offer alternatives if such regulations have a negative impact on affordable housing. The bill also gives teachers and uniformed municipal employees access to special Federal Housing Administration (FHA) financing, including incentives for law enforcement officers to purchase homes in designated high crime areas.

In addition, the bill enables families who receive federal housing assistance, such as public housing or Section 8 housing, to use these funds for a down payment or monthly mortgage payment assistance. The measure also includes the text of H.R. 710 (the Manufactured Housing Improvement Act) to create a process for keeping construction standards updated in a timely manner, improve management of the federal program, and require HUD to ensure that disparate state and local requirements do not affect the uniformity and comprehensiveness of the standards. Finally, the bill includes provisions from H.R. 815 (American Community Renewal Act) that allows HUD to transfer unoccupied and substandard housing to local governments and community development corporations to revitalize distressed communities.

Background:

The national homeownership rate is at an all-time high of almost 67 percent, however this figure can be misleading as certain groups face major obstacles when buying their first homes. For example, fewer young Americans are able to afford their own homes than in past years. In 1972 the median new home price was $27,600 and with a 10 percent down payment nearly two-thirds of young households could purchase a home. In 1999, the median new home price was $157,000 and with a 10 percent down payment, less than 40 percent of young households could purchase a new home. The rapid rise in new home prices creates a barrier to people of all ages trying to buy a new home. H.R. 1776 is designed to simultaneously help households reach the goal of homeownership while improving living conditions of

communities and neighborhoods nationwide.

Provisions:

Barriers to Affordable Housing. H.R. 1776 includes several provisions designed to minimize unnecessary or excessive regulations that reduce the availability of affordable housing. Specifically, the bill (1) authorizes $15 million for FYs 2001-2005 for grants to states and localities to develop strategies for removing barriers to homeownership; (2) requires all proposed federal regulations to include a housing impact analysis on housing affordability; (3) directs HUD to create model impact analyses; (4) exempts agencies responsible for regulating safety and soundness of financial institutions of government sponsored enterprises (GSEs), and (5) creates a "Regulatory Barriers Clearinghouse" within HUD to research the prevalence of regulatory barriers and their effects on housing affordability.

Homeownership Through Mortgage Insurance and Loan Guarantees. The bill allows senior citizen homeowners to refinance federally insured Home Equity Conversion Mortgages (HECMs) or "reverse mortgages." These mortgages allow citizens over age 62 to borrow against the equity in their homes without being required to make monthly interest or principal payments. The mortgages are then repaid upon the death of the homeowner through the sale of the home. Specifically, it (1) reduces the single premium payment when refinancing to credit the premium paid on the original loan (subject to an actuarial study); (2) establishes a limit on origination fees and prohibit broker fees; (3) waives the up-front mortgage insurance premium when reverse mortgage proceeds are used for health care services; and (4) waives counseling requirements for borrowers who had counseling in the past five years and who have their principal limit exceed refinancing costs by an amount set by the department.

In addition, the bill (1) strengthens protections against fraud in HUD's 203(k) program that provides mortgages to purchase and rehabilitate homes; (2) amends current law to allow Community Development Financial Institutions to originate and service section 249 risk-sharing mortgage loans in a demonstration program; (3) extends the loan terms for manufactured home lots from 15 years and 32 days to 20 years and 32 days; (4) authorizes simplified down payment requirements for FHA-insured mortgages; (5) creates Hybrid FHA Adjustable Rate Mortgages (ARMs) to insure mortgages that carry at least a three year initial period before adjusting to a fixed rate; (6) provides for a study of the inspection process for FHA properties; and (7) requires HUD to report to Congress on recommendations to enhance the property improvement loan insurance program.

HUD-Held Housing and Local Governments. H.R. 1776 allows HUD to transfer unoccupied and substandard HUD-owned housing to local governments and community development corporations. The goal is to allow community organizations to develop these properties into affordable housing and revitalize distressed communities. These provisions are very similar to the American Community Renewal Act (H.R. 815) introduced in 1999.

Community Development Block Grants. H.R. 1776 reauthorizes the Community Development Block Grant (CDBG) program and the Housing Opportunities For Persons with AIDS Program (HOPWA) through 2005. CDBG is authorized at $4.9 billion and HOPWA is authorized at $260 million for FY 2001. In addition, the bill requires HUD to grant exceptions to its income eligibility limits for the use of CDBG and HOME funds to at least ten jurisdictions. Currently, the programs can only help jurisdictions capped at a limit of 80 percent of the national median income. This will allow them to serve households with incomes of 80 percent of the local area's median income. Finally, the bill prohibits set-asides within the CDBG

program and provides a six year extension of the 25 percent CDBG public services cap for Los Angeles, California.

Home Investment Partnerships Program (HOME). The bill reauthorizes HOME through FY 2005, and at $1.65 billion for FY 2001. It also authorizes a set-aside of HOME funds of $3 million, for each of fiscal years 2001 and 2002, to create three pilot programs that provide planning money to coordinate affordable housing. H.R. 1776 also allows HOME funds to be used in the creation of large "loan pools" without imposing HOME income restrictions on the entire pool. This allows for the creation of "mixed income" loan pools that would benefit more households than if HOME regulations were applied. In addition, the measure (1) establishes a HOME loan guarantee program that allows the secretary to guarantee future HOME allocations to participating jurisdictions; (2) allows HOME funds to be used for facilities with units of low-income families where a grandparent resides with a grandchild; (3) creates a pilot program to assist people in buying two to three family residences; (4) allows mutual housing associations and limited equity cooperatives to be eligible for HOME; and (5) allows administrative expenses to be used over a long-term period.

Manufactured Housing Improvement. H.R. 1776 contains numerous provisions to update the 1974 National Manufactured Housing Construction and Safety Standards Act (*P.L. 93-383)* that was originally designed to transition trailer-model housing to more reliable, affordable housing under federal building code. The bill establishes an American National Standards Institute (ANSI) consensus committee that will focus on improving the management of the program by developing enforcement standards and establishing a uniform code. In addition, the measure (1) directs states to adopt an installation program within five years that standardizes the installation process; (2) amends current law to allow the Secretary to use industry label fees for the administration of the consensus committee; and (3) establishes a dispute resolution program within five years to settle disagreements regarding responsibility for defects in manufactured homes.

Local Homeownership Initiatives. H.R. 1776 reauthorizes the Neighborhood Reinvestment Corporation at $95 million for FY 2001, and through FY 2005, including $5 million to provide up to 20 competitive grants for existing duplex homeownership programs. In addition, it reauthorizes the self-help housing providers program through FY 2003 and at $25 million for FY 2001; and the Homeownership zones grant program through FY 2002 and at $25 million for FY 2001. The measure also (1) requires the secretary to report to Congress on whether lease-to-own provisions can be incorporated within HOME; (2) amends the 1993 HUD Demonstration Act (*P.L 103-120*) to add the National Association of Housing Partnerships as an intermediary organization eligible for federal grants to encourage affordable housing development; (3) streamlines Notices of Funding Availability (NOFAs) for various HUD programs; (4) makes cooperative housing eligible for housing counseling funds; and (5) authorizes existing grant funds for lead-based paint prevention services and temporary lead-safe housing.

Teachers and Municipal Employees Assistance. H.R. 1776 allows teachers and uniformed municipal employees to receive reduced down payment requirements for FHA-insured loans and be eligible, upon a local governing official's decision, to use CDBG and HOME funds in buying their first home. Eligible employees are those with incomes at or below 115% of area median income, except in high cost areas, where incomes may be at 150% of area median income. The bill also allows teachers and administrators to purchase FHA single-family properties at a discount and directs the HUD to develop a pilot program that offers assistance to law enforcement officers purchasing homes in high crime areas.

Homeownership Options. The bill permits Public Housing Authorities (PHAs) to create homeownership programs for families receiving tenant-based assistance by providing down payment assistance in the form of a single grant rather than monthly assistance. In addition, the measure authorizes $2 million for HUD grants used for a pilot program to assist disabled families in purchasing homes.

Native American Housing. H.R. 1776 creates and authorizes the Land Title Report Commission for $500,000 to develop recommended approaches to improving efficiency in Bureau of Indian Affairs (BIA) title reviews prior to selling Indian lands. It also permanently authorizes the Loan Guarantee program for Indian housing. In addition, the measure incorporates provisions of S. 400 that makes numerous technical amendments to the 1996 Native American Housing and Self-Determination Act (*P.L. 104-330*), including (1) allowing the HUD Secretary to waive the requirement for a local cooperation agreement; (2) adding requirements for assistance to Indian families that do not qualify for low-income status; (3) allowing the HUD Secretary to waive the statutory requirements of environmental reviews to enable problems resulting from procedural noncompliance to be addressed; and (4) prescribing formula allocation for Indian housing authorities operating fewer than 250 units. Finally, the bill allows Native Americans to become eligible borrowers under the multifamily loan guarantee program.

Rural Housing Homeownership. The measure increases the amount of promissory note amounts from $2,500 to $7,500 under the housing repair loan program that was set up to fund home repairs without going through the formal loan process. In addition, the bill strengthens enforcement and prosecution of money laundering and makes numerous technical and clarification amendments to rural housing programs.

Private Mortgage Technical Corrections. In 1998, Congress enacted legislation (*P.L. 105-216*) that automatically cancels private mortgage insurance (PMI) when it is no longer required, saving the average homeowner thousands of dollars in unnecessary expense. Private mortgage insurance is used to protect the lender or secondary market investor from loss if the borrower defaults on a low-down payment loan. As time passes, the borrower's equity in the property increases and the risk of default decreases, to the point where mortgage insurance is no longer necessary. However, consumers had complained of an increasing practice by mortgage lenders to continue charging PMI premiums when it was no longer needed. H.R. 1776 makes technical corrections to the new law, specifically to the amortization schedule and various cancellation rights.

Costs/Committee Action:

A CBO cost estimate was not available at press time.

The Banking & Financial Services Committee reported the bill by voice vote on March 14, 2000.

Michelle Yahng, 226-6871